STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

International Paper Company, Appellant, **v.** **City of Cedar Rapids Board of Review,** Appellee.	**ORDER** **Docket No. 13-101-0827** **Parcel No. 19101-01001-00000**

On September 9, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Richard Davidson of Lane and Waterman, LLP, Davenport, Iowa represented International Paper Company. Assistant County Attorney Mohammed Sheronick represented the Board of Review and participated by telephone. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

International Paper Company is the owner of an industrially classified property located at 4600 C Street Southwest, Cedar Rapids, Iowa. The property is operated as a paper mill and includes two elevated manufacturing buildings, three warehouses, and an office building. It was built between 1994 and 1995, and the total building area, according to the appraisal, is 828,183 square feet, of which 4.70% is finished office space. According to the property record card, it also has 830,500 square feet of concrete paving, yard lighting, and chain link fencing. The site is 127.92 acres.

International Paper protested to the Board of Review regarding the 2013 assessment of $46,791,956, allocated as $2,245,104 in land value and $44,546,852 in improvement value. It claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the claim.

International Paper then appealed to this Board re-asserting its claim. It contends the correct value of the property is $36,200,000.

International Paper submitted an appraisal prepared by Kevin Pollard of International Appraisal Company. (Exhibit 1). Pollard developed the cost and sales comparison approaches to value and concluded a market value of $36,200,000 for the subject property as of January 1, 2013. Pollard explained he did not complete the income approach to valuation because he was unable to find any meaningful leases of comparable properties due to the property's size. Additionally, he noted it was an owner-used property and not an investor-owned property.

Pollard inspected the subject property and provided a detailed description of the site and improvements. (Exhibit 1, pp. 15-18). To complete the cost approach, Pollard relied on five comparable land sales, of primarily industrial parcels, to determine a market value for the site. After adjusting the sales for differences, he concluded a site value of $3,300,000, or roughly $25,700 per acre. We note there is a minor difference between Pollard's site size and the subject property's property record card (128.36 acres versus 127.92 acres, respectively); however, this is a minor discrepancy based on the total site size, and we do not find this materially affects Pollard's conclusions.

The Board of Review was critical of Pollard's Comparable Land Sale 1 because it occurred after the assessment date. However, Pollard explained the negotiations occurred *prior* to the assessment date, and it should not be excluded only because it sold several months after that date (April 2013).

After estimating the site value, Pollard explained that he segregated the improvements into various sections because of the differences in construction type and used Marshall and Swift, a national cost service, to determine the replacement cost new of the buildings and site improvements. (Exhibit 1 pp. 22-23; addendum). Pollard then deducted 36% physical depreciation of the improvements and

20% external obsolescence. Pollard opined this amount of external obsolescence was reasonable and was caused by a diminished demand for a property of the subject's size and because the improvements are not readily adaptable to other uses. (Exhibit 1 p. 23). He also reduced the site improvements by 60% physical depreciation and 20% external obsolescence. Pollard arrived at a final value of $37,500,000 by the cost approach.

To complete the sales comparison approach, Pollard testified that he relied on professional nationwide contacts; Co-Star, a large national database; and other sources to compile a substantial amount of data of similar type properties. He estimated his original search for sales resulted in approximately 100 properties. From that compilation, Pollard narrowed the search and ultimately relied on five improved properties that sold between 2010 and 2012 that ranged in a price per-square-foot from $33.20 to $49.92. (Exhibit 1 p. 24). He adjusted the properties for differences to determine a range of value between $43.01 and $44.43. (Exhibit 1 p. 49).

Pollard provided testimony on each of the properties he used as comparable sales. Comparable 1 is located in Tipton, Indiana. It is a large plant, relatively new, has similar tilt-up concrete construction, and sold in December 2012. This property was built-to-suit for a contractor of Chrysler, but the contractor filed for bankruptcy prior to possession and full completion of the improvements. Chrysler stepped in to purchase the property for its original use of manufacturing transmissions. Pollard adjusted this sale for location because it is in a smaller community with inferior access to interstates. The Board of Review was critical of this sale because the original buyer filed bankruptcy before the purchase. Despite this, Pollard did not believe it was a forced sale because the builder put the property back on the market and that transaction was a normal sale.

Comparable 2 is located in Montgomery, Illinois, and sold in December 2012. The property was used for some light manufacturing, but consists primarily of warehouse area and distribution space. It was 100% occupied at the time of sale, but one of the tenants had only 18 months remaining on its lease. Pollard inspected the property and determined it was inferior in condition due to lower ceiling heights, less office space, and a lower land-to-building ratio. He also applied a minimal adjustment to the sale for the length of its remaining lease.

Comparable 3 is a large, tilt-up, concrete warehouse; that sold in December 2012; and is located in Ankeny, Iowa, a northern suburb of Des Moines. It was built for Toro Company. It is mainly a distribution warehouse, but Pollard notes it is a wide-bay, high-ceiling building, which could be converted easily to manufacturing. It was also brand new. Pollard adjusted this sale downward because it was subject to a long-term lease to Toro, which he identified as a corporation with good credit strength. Pollard further explained he believed distribution facilities, like Toro, were comparable to the subject property because the subject has a significant amount of warehouse space. Further, many of the sales he examined with sizes similar to the subject, approaching a million square feet, were of older improvements that sold in a range of $5.00 to $10.00 per-square-foot. He said it was obvious after inspecting the subject property, which is higher quality and newer, that it was worth more than this range of value. Moreover, in Pollard's opinion, using the older manufacturing sales would have resulted in significant adjustments. He believes that higher quality, newer buildings in reasonably similar locations are better comparable properties.

Comparable 4 is located in Davenport and sold subject to a lease guaranteed by Deere & Company, another strong credit tenant. The property sold in May 2012. This Comparable is also a high-ceiling, wide-bay distribution warehouse. Pollard appraised this property and reported that the lease states specifically that Deere can convert this space to manufacturing if it wants. It has similar construction type to the subject property and is a little newer.

Comparable 5 is located in Aurora, Illinois, and was built in 2009. It sold in May 2010, and was the oldest sale Pollard used in his analysis. The tenant approached the owner about purchasing the property after occupying the building for only a year. The construction quality is similar to the subject, but it is in a Chicago suburb, which is superior to the subject's location.

Pollard relied on all of the sales in his analysis. The adjusted range of value was $43.01 to $44.43 per-square-foot. He ultimately determined the mid-point of this range was reasonable, especially given the range's tightness. He concluded a value of $36,200,000 by the sales comparison approach.

The Board of Review asked Pollard why he did not use the subject property's sale as a comparable. Pollard stated he was aware of that sale and it was in his database. He explained he asked International Paper about this transaction and learned it was an asset transfer. It was part of a large acquisition of Weyerhaeuser and the price was determined as an asset allocation rather than a negotiated purchase price. He did not consider it a normal transaction.

The Board of Review did not offer any evidence; however, it submitted a post hearing brief (Brief). The Board of Review contends the subject's assessment at $46,020,868 was relatively unchanged from 2005 to 2010. Further, during that time in 2008, the property transferred for exactly the assessed value. The assessment changed slightly in 2011 to $46,791,956, a 1.68% increase, and remained at that value up to the time of the 2013 appeal. The Board of Review appears to assert that because International Paper did not protest the assessment until 2013, and the assessed value has remained relatively constant since 2005, that International Paper has acquiesced to the assessment as reflective of market value. Moreover, the Board of Review asserts that because the 2008 transfer was the exact amount of the assessment, International Paper recognizes it as the market value. We find no merit in this argument.

The Board of Review's Brief also contains criticism of Pollard's appraisal. It asserts the appraisal is "silent as to the basis and analysis of his location adjustments." (Brief p. 3). We note Pollard testified in detail about the adjustments he made to each property and explained instances where adjustments were made for differences in location. In addition, Pollard addresses his adjustments in his report. (Exhibit 1 p. 25-26).

The Board of Review also asserts Pollard "attributes functional obsolescence to the heavy construction and foundation for the equipment located in buildings B1 and B4, however, inexplicably, he applies this obsolescence to all building and yard items." (Brief p. 3). We note the explanation in the appraisal report indicates, "A *primary* consideration regarding functional obsolescence is the extremely heavy construction of the paper machine buildings due to the sheer weight of the equipment and the fact they are elevated." [Emphasis added]. (Exhibit 1 p. 23). This explanation indicates Pollard considered other factors as well. Pollard explained in his report and testified that he made a single adjustment to reflect the subject's functional and external obsolescence. When questioned by the Board of Review at hearing, Pollard testified that he did not attempt to segregate the 20% adjustment between functional or external forces. The Board also notes Pollard states that "no detrimental influences were observed and the long-term outlook is stable." (Exhibit 1 p. 15). It finds this to be contradictory to his opinion that external obsolescence exists. We note that Pollard's comments were reflective of the *neighborhood conditions*, not the subject property itself. (Exhibit 1 p. 15). It is possible for a neighborhood or market to have stable conditions, but a particular property within that neighborhood to have economic obsolescence because of the limited pool of buyers for a specific property type or use.

The Board of Review asserts Pollard's sales comparison approach is unreliable, stating he "declined to investigate sales of paper mills which were of the size, location, and age of the subject." (Brief p. 3). We note the Board's assertion lacks any sales it investigated and determined were more reliable than those Pollard selected, which we find limits the credibility of its critique. Further, Pollard testified he considered approximately 100 sales prior to determining the sales he included as the best available.

The Board of Review notes Pollard valued the subject improvements in the cost approach based on a Class B Structure type. The Board asserts the comparable properties used in the sales analysis were all Class S structures and Pollard "appears to make virtually no adjustment for the difference." (Brief p. 4). We were unable to find anything in the record that indicates Pollard determined the sales to be Class S structures. It appears the Board is asserting Pollard is limited to using only Class B structures in his sales comparison analysis because he used that as a basis for his cost analysis. We do not find any supporting appraisal methodology or typical practices that would support this opinion. We find Pollard adequately described any differences in quality or condition between the subject and the comparable properties for his sales analysis.

Apparently, because Pollard's opinion is significantly lower than the 2013 assessment or 2008 transfer, the Board of Review asserts that, "According to Pollard, the value of this property is in free fall" (Brief p. 4). However, Pollard only offered an opinion of value for the subject property as of January 1, 2013. He did not offer any analysis, history, or opinion about any previous values of the subject; or any opinion about the relationship of any previous assessed values to the January 1, 2013, opinion date.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id*. The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id*. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. However, foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable sales. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). International Paper submitted a market value appraisal completed by Kevin Pollard, with an effective date of January 1, 2013. Pollard developed the cost and sales comparison approaches to value and relied most on the sales comparison approach, concluding an opinion of value of $36,200,000. We find Pollard's analysis and explanations to be sound, well-reasoned, and reasonably reflect the subject property's fair market value as of January 1, 2013. Likewise, we reject the critiques of Pollard's appraisal offered in the Board of Review's Brief. These critiques are not supported by references to the record or by law.

THE APPEAL BOARD ORDERS the assessment of the property located at 4600 C Street Southwest, Cedar Rapids, Iowa, is modified to a total value of $36,200,000, as of January 1, 2013. The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Linn County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 14th day of October, 2014.

Karen Oberman

Karen Oberman, Presiding Officer

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